

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

JOSEPH A. MCCLANEY, III

Debtor.

CHAPTER 13
CASE NO. 12-20589

**OBJECTION TO CLAIM
NOTICE OF HEARING AND ORDER**

NOTICE

NOTICE is hereby given of the objection by Joseph A. McClaney, III to your claim in the Western District of New York. A hearing on the objection will be held before the Hon. Paul R. Warren, U.S. Bankruptcy Court Judge, at the U.S. Courthouse, 100 State Street, Rochester, New York 14614, on September 13, 2012, at 11:30 a.m., only if a written request for a hearing is filed by the claimant as outlined below.

"PURSUANT TO FRBP 9014 AND THE STANDING ORDERS IMPLEMENTING DEFAULT PROCEDURES IN ROCHESTER AND WATKINS GLEN; IF YOU INTEND TO OPPOSE THE MOTION, AT A MINIMUM, YOU MUST SERVE: (1) THE MOVANT AND MOVANT'S COUNSEL, AND (2) IF NOT THE MOVING PARTY (A) THE DEBTOR AND DEBTOR'S COUNSEL; AND (B) IN A CHAPTER 11 CASE, THE CREDITORS' COMMITTEE AND ITS ATTORNEY, OR IF THERE IS NO COMMITTEE, THE 20 LARGEST CREDITORS; AND (C) ANY TRUSTEE. IN ADDITION, YOU MUST FILE WITH THE CLERK OF THE BANKRUPTCY COURT WRITTEN OPPOSITION TO THE MOTION NO LATER THAN THREE (3) BUSINESS DAYS PRIOR TO THE RETURN DATE OF THE MOTION NOTWITHSTANDING THE DECEMBER 1, 2009 AMENDMENTS TO FRBP 9006(a). IN THE EVENT THAT NO WRITTEN OPPOSITION IS SERVED AND FILED, NO HEARING ON THE MOTION WILL BE HELD ON THE RETURN DATE AND THE COURT WILL CONSIDER THE MOTION UNOPPOSED."

IF YOU OPPOSE THE OBJECTION TO YOUR CLAIM, YOU MAY WANT TO ATTEMPT TO RESOLVE AND SETTLE THE CLAIM OBJECTION PRIOR TO FILING WRITTEN OPPOSITION AND AVOID THE NEED FOR AN ATTORNEY AND/OR A COURT APPEARANCE.

OBJECTION TO CLAIM

The Objecting Party objects to the following claim in this case:

Claimant Name: American Tax Funding, LLC

Claim #: 5

Amount \$ 15,148.95

Date: 6/28/12

DETAILED BASIS OF OBJECTION INCLUDING GROUNDS FOR OVERCOMING ANY PRESUMPTION UNDER RULE 3001(f): Debt for County real estate tax for tax years prior to 2006 has been discharged in prior Chapter 13 bankruptcy case. Remaining claim is subject to offset for actual damages including reasonable attorneys fees in the amount of \$500.00, incurred as a result of claimant's willful violation of the automatic stay.

Dated: August 3, 2012

Joseph A. McClaney, III
Objecting Party(ies)
By
Address: David H. Ealy, Esq.
Two State Street, Suite 1000
Rochester, New York 14614

This Notice and Objection are being sent to the Debtor, Debtor's Attorney, Chapter 7, 11 or 13 Trustee, United States Trustee, Claimant, Claimant's Attorney (if known) or person designated as Power of Attorney, and any Creditors' Committee or Attorney for the Creditors' Committee.

ORDER

JOSEPH A. MCCLANEY, III

CHAPTER 13

CASE NO. 12-20589

Debtor.

There having been no opposition to the herein objection to claim #5 of American Tax Funding, LLC for a collection account in the amount of \$15,148.95, and the Court having considered the objection and determined the sufficiency of the claim, it is hereby

ORDERED the claim is:

DISALLOWED

ALLOWED AS A TIMELY FILED CLAIM IN THE **REDUCED AMOUNT OF \$940.18**.

ALLOWED AS A TARDILY FILED CLAIM IN THE AMOUNT OF \$_____.

OTHER (Complete if applicable.)

DATED: _____

**PAUL R. WARREN
U.S. BANKRUPTCY JUDGE**